

#24
2-19

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Carin Widerstrom
Serial No. : 09/051,443
Filed : April 10, 1998
Title : DISPOSABLE INHALER

Art Unit : 3735
Examiner : Joseph F. Weiss, Jr.

Mail Stop Appeal Brief - Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED
FEB 19 2004
TECHNOLOGY CENTER R3700REPLY BRIEF

Pursuant to 37 CFR 1.193(b)(1), Applicant responds to the new points raised in the Examiner's Answer as follows.

Contrary to what is stated at page 9 of the Examiner's Answer, single-use inhalers are quite different in structure and operation than multiple-use inhalers. The single-use inhalers have only a single dose and are disposable after one use. The multiple-use inhalers have multiple doses and some mechanism to activate individual doses and repeatedly use the same equipment for multiple, repeated doses. People in the art know this. The fact that someone is physically able to use the single dose inhaler described in the specification in a totally improper and unintended way to obtain multiple doses does not mean that someone skilled in the art would do that, or not appreciate the fundamental differences between single use and multiple use inhalers.

Contrary to what is stated at page 10 of the Examiner's Answer, there is no reason to conclude that the statement that the indicia could provide information on "the amount of insulin dispensed from each container which might be particularly useful if the containers included different amounts of insulin" means that there are different amounts in the containers on each strip. The Gonda reference is not clear as to whether the "containers" in the quoted passage with different amounts are on the same strip or on different strips, with all containers on the same strip

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit

Signature

February 12, 2004

Jennifer Leveille

Typed or Printed Name of Person Signing Certificate

Noted
2/20/04
A. J. [illegible]

Applicant : Carin Widerstrom
Serial No. : 09/051,443
Filed : April 10, 1998
Page : 2

Attorney's Docket No. 06275-124001

having the same amount. The fact that the "container" refers to container 1 and that there are a plurality of containers 1 on each strip does not mean that the statement in Gonda means the containers with different amounts are on the same strip. It seems much more likely that all containers on the same strip would have the same amount, but that a manufacturer might offer some strips having containers with one amount, and another strip (e.g., at a lower price for someone taking a lower dose) with containers having a different amount, with all containers on a particular strip having the same amount. It seems unlikely that a manufacturer would ever sell strips with the different containers having a variety of different amounts. It is improper to take Gonda as a positive teaching of different amounts in containers on the same strip.

For these reasons, and the reasons stated in the Appeal Brief, Applicant submits that the final rejection should be reversed. Other points in the Examiner's Answer will be addressed at the hearing.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: _____

Feb 12, 2004

William E. Booth

William E. Booth
Reg. No. 28,933

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906